

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,                         )  
  )  
  )  
Plaintiff,    )  
  )  
vs.    )    **Case No. 01-CR-30140-02-MJR**  
  )  
EARNEST D'MARCO JOHNSON,                            )  
  )  
Defendant.    )

**MEMORANDUM and ORDER**

**REAGAN, District Judge:**

Before this Court is Defendant Earnest D'Marco Johnson's "Motion for Government to Secure Defendant's Presence at Sentencing Hearing(s)" (Doc. 265). Therein, counsel for Johnson argues that Johnson's presence at the *Paladino* hearing (scheduled for December 2, 2005) is necessary in order for the Court to adequately determine whether a sentencing departure is warranted. This Court disagrees. In making a *Paladino* determination, "the District Court should obtain the views of counsel, at least in writing, but *need not* require the presence of the Defendant."

***United States v. Paladino, 401 F.3d 471, 484 (7<sup>th</sup> Cir. 2005)(emphasis added).*** The Court will consider any written affidavits that Johnson submits regarding this matter. Johnson's physical presence at the *Paladino* hearing, however, is unnecessary. Accordingly, the Court hereby **DENIES** Johnson's motion (Doc. 265).

**IT IS SO ORDERED.**

**DATED this 13th day of October, 2005.**

**s/Michael J. Reagan**  
**MICHAEL J. REAGAN**  
**United States District Judge**